

REFERENCE TITLE: abortion; parental consent; notarized statement

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HB 2666**

Introduced by  
Representatives Nichols, Barnes, Biggs, Burges, Gray C, Murphy, Pearce,  
Pierce, Weiers JP, Yarbrough: Allen J, Anderson, Boone, Gorman, Groe,  
Knaperek, McComish, McLain, Quelland, Robson, Stump, Senators Gould,  
Huppenthal, Martin, Verschoor

AN ACT

AMENDING SECTION 36-2152, ARIZONA REVISED STATUTES; RELATING TO ABORTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 36-2152, Arizona Revised Statutes, is amended to  
3 read:

4           36-2152. Parental consent; exception; hearings; time limits;  
5           violation; classification; definitions

6       A. A person shall not knowingly perform an abortion on a pregnant  
7 unemancipated minor unless the attending physician has secured the written  
8 **AND NOTARIZED** consent from one of the minor's parents or the minor's guardian  
9 or conservator or unless a judge of the superior court authorizes the  
10 physician to perform the abortion pursuant to subsection B **OF THIS SECTION**.

11      B. A judge of the superior court ~~shall~~, on petition or motion, and  
12 after an appropriate hearing, **SHALL** authorize a physician to perform the  
13 abortion if the judge determines that the pregnant minor is mature and  
14 capable of giving informed consent to the proposed abortion. If the judge  
15 determines that the pregnant minor is not mature or if the pregnant minor  
16 does not claim to be mature, the judge shall determine whether the  
17 performance of an abortion on her without the consent from one of her parents  
18 or her guardian or conservator would be in her best interests and shall  
19 authorize a physician to perform the abortion without consent if the judge  
20 concludes that the pregnant minor's best interests would be served.

21      C. The pregnant minor may participate in the court proceedings on her  
22 own behalf. The court may appoint a guardian ad litem for her. The court  
23 shall advise her that she has the right to court appointed counsel and ~~shall~~,  
24 on her request, **SHALL** provide her with counsel unless she appears through  
25 private counsel or she knowingly and intelligently waives her right to  
26 counsel.

27      D. Proceedings in the court under this section are confidential and  
28 have precedence over other pending matters. Members of the public shall not  
29 inspect, obtain copies of or otherwise have access to records of court  
30 proceedings under this section unless authorized by law. A judge who  
31 conducts proceedings under this section shall make in writing specific  
32 factual findings and legal conclusions supporting the decision and shall  
33 order a confidential record of the evidence to be maintained including the  
34 judge's own findings and conclusions. The minor may file the petition using  
35 a fictitious name. For purposes of this subsection, public does not include  
36 judges, clerks, administrators, professionals or other persons employed by or  
37 working under the supervision of the court or employees of other public  
38 agencies who are authorized by state or federal rule or law to inspect and  
39 copy closed court records.

40      E. The court shall hold the hearing and shall issue a ruling within  
41 forty-eight hours, excluding weekends and holidays, after the petition is  
42 filed. If the court fails to issue a ruling within this time period the  
43 petition is deemed to have been granted and the consent requirement is  
44 waived.

1       F. An expedited confidential appeal is available to a pregnant minor  
2 for whom the court denies an order authorizing an abortion without parental  
3 consent. The appellate court shall hold the hearing and issue a ruling  
4 within forty-eight hours, excluding weekends and holidays, after the petition  
5 for appellate review is filed. Filing fees are not required of the pregnant  
6 minor at either the trial or the appellate level.

7       G. Parental consent or judicial authorization is not required under  
8 this section if either:

9       1. The pregnant minor certifies to the attending physician that the  
10 pregnancy resulted from sexual conduct with a minor by the minor's parent,  
11 stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or  
12 foster parent or by a person who lives in the same household with the minor  
13 and the minor's mother. The physician performing the abortion shall report  
14 the sexual conduct with a minor to the proper law enforcement officials  
15 pursuant to section 13-3620 and shall preserve and forward a sample of the  
16 fetal tissue to these officials for use in a criminal investigation.

17       2. The attending physician certifies in the pregnant minor's medical  
18 record that, on the basis of the physician's good faith clinical judgment,  
19 the pregnant minor has a condition that so complicates her medical condition  
20 as to necessitate the immediate abortion of her pregnancy to avert her death  
21 or for which a delay will create serious risk of substantial and irreversible  
22 impairment of major bodily function.

23       H. A person who performs an abortion in violation of this section is  
24 guilty of a class 1 misdemeanor. A person is not subject to any liability  
25 under this section if the person establishes by written evidence that the  
26 person relied on evidence sufficient to convince a careful and prudent person  
27 that the representations of the pregnant minor regarding information  
28 necessary to comply with this section are true.

29       I. For THE purposes of this section:

30       1. "Abortion" means the use of an instrument, medicine or drug or  
31 other substance or device with the intent to terminate a pregnancy for  
32 reasons other than to increase the probability of a live birth, to preserve  
33 the life or health of the child after a live birth, to terminate an ectopic  
34 pregnancy or to remove a dead fetus. Abortion does not include birth control  
35 devices or oral contraceptives that inhibit or prevent ovulation,  
36 fertilization or the implantation of a fertilized ovum within the uterus.

37       2. "Fetus" means any individual human organism from fertilization  
38 until birth.